

Chyleen Arbon – BOPP suggestions:

### **Addendum B**

The Board is concerned about deleting “Other” crimes for the following reasons:

1. It takes a step back with regard to transparency and clarity, which may lead to inaccurate guideline calculations, offender confusion and correspondence, and potential law suits.
2. Addendum B does not include any attempts, conspiracies, or solicitation offenses and therefore would relegate an attempted aggravated robbery to an “other” crime.
3. If the list is not 100% perfect (which is a risky proposition), it will relegate any crime that is inadvertently not on the list to an “other” crime.
4. Board staff use the “other” list to identify statutory references to make determinations that are not clear.

### **Audit**

“A statement of general rationale for Board decisions is provided to the offender and made available to the public at [www.bop.utah.gov](http://www.bop.utah.gov). The Board of Pardons and Parole is currently in the process of developing a structured decision making tool and adopting the ten practice targets identified by the National Parole Resource Center. As Board practices are further developed and delineated, the guidelines should be updated to reflect practices accordingly.”

### **Revocation Caps**

The number of revocations will be counted continuously during the current period of court or BOPP jurisdiction. Probation revocation to prison, or discharge from probation or parole supervision, resets the revocation count.

## **ALTERNATIVE DRAFT - 2016 Utah Sentencing Guidelines**

Addendum B Proposed Changes – (Page 44)

### **Categorization of Crimes**

This list categorizes **Murder, Death, Person and Possession Only** offenses to help determine the appropriate crime category column on the guidelines matrices. Offenses actually resulting in the death of the victim have been classified as either **Murder** or **Death**. The **Person** category is **meant to be** a comprehensive list of all person crimes to be counted in criminal history scoring on Forms 1-5. The sentencing authority may determine **that** additional crimes should be counted as a person crime upon a finding that a crime not listed in Addendum B is both accurate and

relevant, consistent with State v. Waterfield 2014 UT App 67 and State v. Sandridge 2015 UT App 297. Offenses that consist of only the possession of a controlled substance, are categorized as Possession Only.

Inchoate offenses (“attempt”, “conspiracy”, or “solicitation”) should be categorized based upon the target offense (i.e. an attempt, conspiracy, or solicitation to commit a person crime is categorized as a person crime).

Crimes not specifically categorized below, [~~All other offenses~~] including drug offenses that are not “possession only”, property offenses, and offenses against public order ~~would~~ should be considered “Other” crimes, but are not specifically listed in the following table. [~~If not listed, one should assume the crime is classified as an other offense category.~~] To find the appropriate crime category column on the General Matrix (Form 1), first determine the degree of the offense (1st degree, 2nd degree, or 3rd degree) by referring to the judgment and commitment order or other official court document. Then, determine whether the offense is categorized as murder, death, person, or possession only.

In deleting the specific listing of “Other” crimes in this version of the Guidelines, it is not the intent or object of the Sentencing Commission to change the definition or categorization of any particular crime.